

**SECRETARY OF STATE
SECURITIES DIVISION
STATE OF MISSISSIPPI**

IN THE MATTER OF:

**ADMINISTRATIVE PROCEEDING
NUMBER 95-03-03**

STRATTON OAKMONT, INC.
1979 Marcus Avenue
Lake Success, New York 11042-1002

DANIEL MARK PORUSH
President
Stratton Oakmont, Inc.
1979 Marcus Avenue
Lake Success, New York 11042-1002

CONSENT ORDER

The Securities Division of the Office of the Secretary of State of Mississippi ("Division"), having the power to administer and provide for the Mississippi Securities Act, Miss. Code Ann. § 75-71-101 et seq. (Supp. 1991) (the "Act"), and Stratton Oakmont, Inc. ("Stratton Oakmont") do hereby enter into this Consent Order ("Order") in settlement of the above-captioned matter. Stratton Oakmont, under the terms of this Order and solely for the purposes of these proceedings and without admitting or denying the allegations set forth herein or in Exhibits A and B attached hereto, hereby consents to the issuance and execution of this Order.

WHEREAS, in consideration thereof, Stratton Oakmont and the Division have agreed and stipulated to the following:

1. The Division entered a Summary Suspension and Notice of Intent to Revoke Registration and Impose Administrative Penalty ("Initial Notice")

on March 6, 1995. A copy is attached as Exhibit A.

2. The Division entered an Amended Summary Suspension and Notice of Intent to Revoke Registration and Impose Administrative Penalty ("Amended Notice") on August 14, 1995. A copy is attached as Exhibit B.
3. Within fifteen (15) days of execution of this Order, Stratton Oakmont will make an offer of rescission with respect to the transactions listed on Exhibit C. The offer of rescission shall remain open for thirty (30) days after receipt of notice by the customer in the form and means as provided in paragraph 14 of this Order.
4. Stratton Oakmont will provide the Division with a list of customers who traded in the unregistered securities no later than fifteen (15) days from the date of this Order. If the Division and Stratton Oakmont agree that a transaction with a customer residing in Mississippi at the time of the sale that is not covered in the preceding paragraph is a violation of the registration requirements of the Act, Stratton Oakmont will rescind the transaction as provided in paragraph 3 of this Order.
5. If the Division and Stratton Oakmont do not agree that a transaction is a violation of the Act as described in paragraph 4 above, the claimed violation will be resolved under the settlement process set forth in paragraph 8 or paragraph 9, as appropriate.
6. Within fifteen (15) days of the execution of this Order, Stratton Oakmont will offer to rescind any sale, not already rescinded in accordance with Mississippi law, made by Stratton Oakmont after March 6, 1995, to a customer residing in Mississippi at the time of the transaction. This offer of rescission will be made to all such customers whether or not such customer is named in the Amended Notice. The offer of rescission shall remain open for thirty (30) days after notice to the customer in the form and means as provided in paragraph 14.
7. Stratton Oakmont has deposited \$200,000 in an escrow account with Trustmark National Bank, for the purpose of paying Mississippi investors for rescission offers made by Stratton Oakmont under paragraphs 3-6. It is the intent of the parties that these funds will be used to pay Mississippi investors and that such funds should not be considered an asset of Stratton Oakmont. If this initial deposit of \$200,000 is depleted before all rescission offers have been paid, Stratton Oakmont will place, within five (5) days, additional funds equal to the amount necessary to satisfy all rescissions that have not been satisfied and which may be offered under

paragraphs 3 - 6 based on alleged violations of the registration requirements of the Act. The amount necessary to satisfy all rescission offers will be determined by deducting the purchase price paid for the security from the price at which the security was sold, or if the security has not been sold, the price of the security on the date that notice is mailed pursuant to paragraph 14, plus interest as set forth in Section 75-71-717 of the Act. Thereafter, Stratton Oakmont will continue to place funds in the escrow account on the same basis until the rescissions are completed. After payment or expiration of all rescission offers in paragraphs 3 - 6 above, remaining funds in the escrow account will be returned to Stratton Oakmont.

8. Claims involving allegations of unauthorized transactions, including those set forth in Count 6 of the Amended Notice, will be resolved pursuant to an agreement between the National Association of Securities Dealers ("NASD") and Stratton Oakmont setting forth a mediation/arbitration process (the "NASD Agreement"), if the following conditions are met:
- A. Stratton Oakmont enters into the NASD Agreement within thirty (30) days of execution of this Order;
 - B. The Division approves of the process set forth in the NASD Agreement, which approval shall not be unreasonably withheld;
 - C. The NASD Agreement provides for all claims by Mississippi residents to be resolved in proceedings held in Mississippi;
 - D. The parties select the Mediator/Arbitrator from a list approved by the NASD and the Division;
 - E. The Division has the opportunity to present information and documentation to the parties;
 - F. The NASD Agreement provides for an escrow account which requires Stratton Oakmont to deposit into the escrow account a sufficient amount to pay claims under this paragraph 8;
 - G. Stratton Oakmont is required to pay all costs and expenses of the settlement process;
 - H. The settlement process will begin in 1995 and will be fully completed within 60 to 90 days.

9. If Stratton Oakmont does not enter into an agreement with the NASD which complies with the conditions set forth in paragraph 8, claims of unauthorized transactions, including those set forth in Count 6 of the Amended Notice, will be resolved by an independent Special Master. The Special Master will be selected by Stratton Oakmont from a list of four candidates approved by the Division. The Special Master will be selected and will proceed no later than forty-five (45) days from the date of this Order in the manner provided below.
10. Stratton Oakmont, the Division, and the customer may submit to the Special Master all information they deem relevant to the validity of the claim and helpful to the Special Master.
11. The Special Master will make determinations as to the validity of claims of unauthorized transactions taking into consideration the factors attached hereto as Exhibit D. After determination, the Special Master shall then notify the customer, in the manner provided in paragraph 14, of the proposed settlement amount, which shall be based on the customer's loss on the unauthorized transaction. The settlement amount shall not include punitive or other special damages. Such offer shall be open for thirty (30) days from date of receipt of the offer by the customer. Stratton Oakmont will establish an escrow account in the amount necessary to rescind all transactions relating to claims to be resolved pursuant to paragraph 9, within forty-five (45) days from the date of this Order, with a minimum deposit of \$100,000, from which the Special Master may satisfy any claim found valid. The terms of the escrow account will be substantially the same as terms of the escrow account referenced in paragraph 7. The amount necessary to rescind all transactions relating to claims to be resolved pursuant to paragraph 9 will be determined by deducting the purchase price paid for the security from the price at which the security was sold, or if the security has not been sold, the price of the security on the date that notice is mailed pursuant to paragraph 14, plus interest as set forth in Section 75-71-717 of the Act.
12. The Special Master shall resolve all claims in a timely manner after the notice to customers required by paragraph 11. Funds remaining in the escrow account after the resolution of all claims and after payment of all costs and expenses of the Special Master will be returned to Stratton Oakmont.
13. As a condition of payment, any customer who accepts an offer of rescission under paragraphs 3 - 6, who accepts payment through the NASD Agreement settlement process under paragraph 8, or who accepts

payments from the Special Master under paragraph 9, will release Stratton Oakmont from further liability for the specific transaction rescinded or satisfied. The customer will retain all rights as to any transaction not specifically set forth in the release.

14. Within fifteen (15) days of the execution of this Order, Stratton Oakmont will notify all Mississippi residents with rights under this Order that the parties have settled certain claims against Stratton Oakmont pursuant to the terms and conditions stated herein. Such notification shall be reviewed and approved by the Division and will include instructions for filing a claim, a discussion of the release and its implications, and a statement that the customer may call the Division's toll free number (1-800-804-6364) for further information, with such number being specifically set forth. The notification shall be sent certified mail, return receipt, to the last known address of the customer. Proof of sending this notification will be provided to the Division by sending to the Division copies of each notification sent within 10 days of mailing and by sending to the Division copies of the return receipts within 10 days of receipt. In addition, the Notice should specify a contact person at Stratton Oakmont for any questions the customer may have. Any contact by a Mississippi resident concerning any provision of this Order shall be taped by Stratton Oakmont, and such tapes will be copied and provided to the Division no later than seven (7) days from the date of the call. Stratton Oakmont further agrees not to initiate any contact with the customers affected by this Order, other than as specifically set forth herein.
15. Stratton Oakmont hereby agrees to pay the Division, within thirty (30) days from the date of this Order, \$15,000 to defray part of its costs in this matter. This amount will be made payable to the Mississippi Securities Act Enforcement Fund. In addition, Stratton Oakmont agrees that the Division will participate in any global settlement negotiated with the states through the North American Securities Administrators Association Special Project.
16. Stratton Oakmont agrees to cooperate with the Division on any inquiry or investigation by the Division concerning current or past registered representatives, officers, directors, or other employees by promptly providing information and documentation as requested by the Division.
17. Any other provision of this Order notwithstanding, this Order shall not apply to claims by that have previously been settled by litigation, arbitration or pursuant to an agreement between Stratton Oakmont and the customer, or to claims that are the subject of pending litigation or

pending arbitration.

18. Stratton Oakmont's broker-dealer license and Daniel M. Porush's broker-dealer agent license shall remain suspended for an indefinite period of time, but the suspension shall be reviewed quarterly by the Division and shall be lifted when:

- (A) Stratton Oakmont has complied with all provisions of this Order;
- (B) The settlement processes described in this Order have been completed;
- (C) Stratton Oakmont has paid \$15,000 in costs to the Mississippi Secretary of State as provided for in paragraph 15;
- (D) In connection with a multi-state resolution of proceedings against Stratton Oakmont, the firm has implemented and provided the Division with evidence of procedures adequate to address and prevent violations of the type alleged in the Amended Notice, and, if applicable, has taken such other actions as may be required by the multi-state settlement;
- (E) Any and all proceedings by regulatory bodies, including but not limited to the Securities and Exchange Commission ("SEC"), the New York Stock Exchange, the National Association of Securities Dealers, Inc. or any state securities agency, have been settled or otherwise resolved;
- (F) Stratton Oakmont has demonstrated to the Division, or to any person designated by the Division, that the firm is fully and completely complying with state and federal books and records regulations, has established a comprehensive compliance program, and is in compliance with the SEC proceeding and injunction;
- (G) There have been no violations of the Act from the date of this Order, nor have any violations other than those alleged in the Amended Notice been found by the Division; and
- (H) Stratton Oakmont has fully and completely cooperated with the Division concerning any inquiry pursuant to the Act.

18. The Division reserves the right to place restrictions on the license as authorized by the Act.

This Order is in resolution of the matters contained in the Initial Notice and the Amended Notice. Stratton Oakmont hereby acknowledges and admits to the jurisdiction of the Division as to all matters herein and acknowledges that the issuance of this Order is solely for the purposes of disposition of the Initial Notice and the Amended Notice.

The Division shall not allege or consider any specified investor's transaction listed in the Amended Notice, or any transaction settled pursuant to this Order, in any future proceeding pertaining to the licensing of Stratton Oakmont as a broker-dealer in the State of Mississippi. However, nothing in this Order shall preclude the Division from acting on any matters arising after the execution of this Order.

AGREED and entered this the 19th day of October, 1995.

Dick Molpus
Secretary of State

BY:

Susan A. Shands

Susan A. Shands
Assistant Secretary of State
Securities Division

Stratton Oakmont, Inc.

BY:

Andrew T. Greene, Esq.

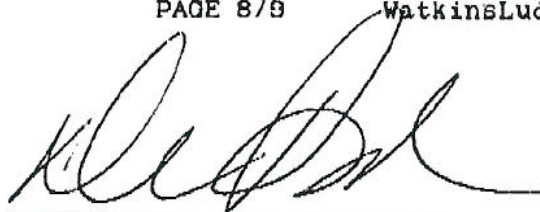
Daniel Mark Porush

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WatkinsLudlamStennis

BY:



Daniel Mark Porush, Individually

Securities Division
Office of the Secretary of State
202 North Congress Street
Suite 601
Post Office Box 136
Jackson, Mississippi 39205
(601) 359-6364



CONSENT TO ENTRY OF ORDER BY RESPONDENT

Stratton Oakmont, Inc. hereby acknowledges that it has been served with a copy of this Order, has read the foregoing factual findings, conclusions of law and order, and is aware of its right to a hearing in this matter, and has waived same.

Stratton Oakmont, Inc. admits the jurisdiction of the Division; neither admits nor denies the factual findings and conclusions of law contained in the Order; and consents to entry of this Order by the Secretary of State as settlement of the issues contained in this Order.

Stratton Oakmont, Inc. states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

Andrew T. Greene, Esq., states that he is an officer of Stratton Oakmont, Inc. and that, as such, has been authorized by Stratton Oakmont, Inc. to enter into this Order for and on behalf of Stratton Oakmont, Inc.

DATED, this the 19th day of October, 1995.

STRATTON OAKMONT, INC.

By: 

EXHIBIT D

The Special Master shall consider the following factors in making determinations of the validity of customer claims of unauthorized purchases by Stratton Oakmont, Inc. These factors shall be construed liberally to assure that customers are treated fairly.

1. The facts and circumstances which gave rise to the claim;
2. Any relevant sales and marketing materials which refer or relate to the investment;
3. The customer's age, financial status, sophistication, and investment objectives;
4. Any misrepresentations or omissions which may have been made in connection with the offer or sale of the investment;
5. Any distributions received by the customer;
6. The residual value of the investment;
7. Any tax benefits received by the customer;
8. Any loss incurred by the customer;
9. Any other factors or circumstances which the Special Master in his/her discretion deems relevant.